

Grievance Administrator,  
State of Michigan  
Attorney Grievance Commission,

Petitioner/Appellee,

v

Leon Jenkins, P 29741,

Respondent/Appellant.

Case No. 90-139-GA

Decided: March 18, 1994

BOARD OPINION

On August 3, 1990, the Michigan Judicial Tenure Commission filed a decision and recommendation with the Michigan Supreme Court which included findings that the respondent had, while holding judicial office, engaged in conduct clearly prejudicial to the administration of justice including the acceptance of bribe payments for the improper dismissal or promises to dismiss thirty cases pending in his court; the dismissal or "fixing" of traffic cases; misrepresentation to an auto insurance carrier to obtain a reduction in his insurance premiums; and an attempt to induce an individual to lie on his behalf if called as a witness. The Judicial Tenure Commission recommended to the Supreme Court that the respondent be removed from office and permanently enjoined from serving in any judicial office in the State of Michigan.

In accordance with the Court Rule governing proceedings against a judge before the Attorney Discipline Board, MCR 9.116, the Grievance Administrator a formal complaint which alleged that the respondent's conduct which was the subject of the proceedings before the Judicial Tenure Commission constituted professional misconduct warranting the imposition of discipline by a hearing panel. Responsive pleadings were filed on behalf of the respondent. The hearing panel held public hearings on September 5, 1990, October 16, 1990, June 18, 1991, August 15, 1991, October 21, 1991, August 13, 1992, November 5, 1992 and December 1, 1992. On February 4, 1993, the hearing panel issued its report on misconduct containing the panel's unanimous conclusion that the professional misconduct alleged in the Grievance Administrator's formal complaint had been established by a preponderance of the evidence and that such conduct violated MCR 9.104(1-5) and Canon 1 of the former Code of Professional Responsibility, DR 1-102(A)(1-6).

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Separate hearings on discipline were conducted on March 30, 1993 and May 10, 1993. On June 24, 1993, the hearing panel issued an order of revocation accompanied by the panel's report on discipline which concluded that:

"After deliberating and considering all the evidence presented in this case, this panel finds that the seriousness and offensiveness of respondent's conduct warrants the revocation of his license to practice, effective February 4, 1993.

Leon Jenkins systematically and repeatedly engaged in conduct that is reprehensible demonstrating an appalling disregard of both the Judicial Canons of Ethics and applicable attorney disciplinary rules. As an aggravating factor, this panel finds deceit in the practice of law in California while representing that he was voluntarily refraining from the practice of law. This conduct is typical of his misrepresentations and mischaracterizations. The result of such conduct is the undermining of the public trust.

Inasmuch as this panel is charged with the responsibility of imposing discipline for the protection of the public, the courts and the legal profession, we believe that the revocation of the respondent's license to practice law in Michigan is warranted. This revocation is effective February 4, 1993."

The respondent filed a Petition for Review with the Attorney Discipline Board on the grounds that the hearing panel did not properly consider the evidence submitted by the respondent in his defense but merely relied upon the record of the Judicial Tenure Commission proceedings offered into evidence by the Grievance Administrator; that the hearing panel's finding of "deceit" based upon the respondent's continued practice of law in the State of California during the Michigan proceedings was improper and unsupported by the evidence; that the effective date of discipline ordered by the panel was erroneous and that revocation of the respondent's license is not warranted.

The Board's review of the hearing panel's findings is governed by the standard enunciated by the Supreme Court in Grievance Administrator v Irving August, 438 Mich 296; 475 NW2d 256 (1991). Applying that standard in this case, it is clear that the hearing

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panel's findings and conclusions have ample and proper evidentiary support. In a proceeding against a respondent/judge, MCR 9.116(C) directs that the record of the Judicial Tenure Commission proceeding is admissible at the hearing and that the Administrator or the respondent may introduce additional evidence. During the course of these lengthy proceedings, the hearing panel had an opportunity to assess the credibility of the witnesses presented by the respondent, including his own testimony, as well as to consider the voluminous record of the proceedings before the Judicial Tenure Commission. The hearing panel's concurrence with the findings of the Judicial Tenure Commission is well-supported by the evidence below and the panel's findings are affirmed.

We also affirm the hearing panel's conclusion that revocation of the respondent's license to practice law is warranted. Indeed, imposition of any lower form of discipline does not merit serious consideration in light of the respondent's abuse of the legal system which he was sworn to uphold.

In its order removing this respondent from judicial office, the Supreme Court observed that:

"Respondent systematically and routinely sold his office and his public trust, committed acts which would, if proven in a criminal trial, constitute violations of three criminal statutes, committed wholesale violations of the most elementary canons of judicial conduct and brought grave dishonor upon this state's judiciary". In re Jenkins, 437 Mich 15, 19-20 (1991).

Notwithstanding the mitigating evidence presented by the respondent, including a prior unblemished record, service to the community and devotion to his family, an attorney may, in some cases, display such a gross and flagrant disregard of the rights of his or her clients or the legal system as a whole that that individual's background or accomplishments cannot obliterate the responsibility to impose the discipline those violations warrant. See Matter of Grimes, 414 Mich 483 (1982).

While it is clear that the revocation of the respondent's license must be affirmed, we wish to make it clear that the decision to affirm is based solely upon the acts of misconduct charged in the formal complaint and subsequently established by the evidence. Specifically, we have not considered the respondent's practice of law in the State of California during these proceedings. Accordingly, we vacate that portion of the hearing panel's report which purports to adjudicate issues of misrepresentation, deceit or the unauthorized practice of law

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arising from the respondent's practice of law in the State of California, without prejudice to consideration of those issues in another proceeding or another forum.

Finally, we have considered the hearing panel's decision to impose a revocation of the respondent's license effective February 4, 1993. It is the respondent's position that he voluntarily ceased the practice of law in Michigan in September 1988 when he was indicted in a criminal proceeding in Wayne County and that any order of discipline should be made retroactive to that date. It is clear that this proceeding, filed under MCR 9.116 is closely related, factually and procedurally, to the Judicial Tenure Commission proceedings which culminated in the Supreme Court's order of January 23, 1991 removing the respondent from judicial office. We order that the revocation of the respondent's license to practice law shall be deemed effective January 23, 1991, the date of his removal from his judicial position.

Board Members John F. Burns, George E. Bushnell, Jr., C. Beth DunCombe, Marie Farrell-Donaldson, Albert L. Holtz, Linda S. Hotchkiss, M.D. and Miles A. Hurwitz.

Board Chairperson Elaine Fieldman and Board Member Barbara B. Gattorn concur in the majority opinion with the exception of the effective date of discipline. Ms. Fieldman and Ms. Gattorn would affirm the hearing panel order of revocation in all respects, including the effective date of revocation of February 4, 1993.